REMARKS

The comments of the applicant below are each preceded by related comments of the examiner (in small, bold type).

The amendment filed on 11/9/2006 has been considered and is effective to overcome Gridley reference. Hence the rejection of claims 1-15 communicated via office action of 08/04/2006 has been withdrawn

The applicant acknowledges that the examiner has withdrawn his rejection under *Gridley*.

The claimed invention in claims 54-68 is directed to non-statutory subject matter. Regarding claims 65-68, in claim 65 the phrase "stores instructions for use by a router in processing a packet, the instructions for causing the router to:" and in claims 64-68 the phrase "comprising instructions", do not comply with 101 interim guidelines. In order for a computer program or software instructions to be statutory it must be embodied in a computer readable medium (see page 52 of the 101 Interim Guidelines). Thus the claimed application in claims 65-68 is nothing but a software application. It is well established that a software application, i.e. computer program, per se is not physical "thing". The computer program does not define any structural and functional interrelationship between the computer program and the rest of the computer, which permits the computer program's functionality to be realized. Thus claim 65-68 is nonstatutory.

Without conceding the examiner's positions, claims 65-68 have been amended.

Regarding claims 54-64, these claims are written in the form of "method". However as evidenced in claim 65, claims 54-64 are claiming software in the form of method. Note that claim 54 mirrors claim 65 in all respects except for the preamble and in light of the specification it is nothing more than the instructions of the application and therefore is non-statutory.
Thus, claims 54-68 are non-statutory since the patent protection sought by the claimed invention is for the computer program in the abstract.

The applicant disagrees with the examiner's position. The methods of claims 54-64 are not limited to being performed by software and do not claim a "computer program in the abstract." The features of the claims could be implemented, for example, by hardware, firmware, software, circuitry, or combinations of them. Claims 54-64 are therefore proper method claims meeting the statutory requirements of 35 U.S.C. § 101.

Claims 1-2,6,10,12-15,54-55,58,61-91, rejected under 35 U.S.C. 102(e) as being anticipated by Subramanian et al. [US Pat: 6,970,943].
Regarding claims 1,69, Subramanian et al in the invention of" Routing Architecture Including A Compute Plane Configured For High Speed Processing of Packets to Provide Application Layer Support" disclosed (Figs 1-4, col 1,lines 60-67, col 3,lines 10-67, col 4,lines 1-45) a router (Item 10 of Fig 6) using a distributed implementation of a routing control protocol to route a packet between a plurality of computer networks (col 1,lines 60-67, col 2,

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lines 1-46), comprising: a control-plane (control plane, item 12 of Fig 6) having a control-plane processor (control processor, item 28 of Fig 6) to implement a central control portion of the control protocol (col 4,lines 21-32, col 5, lines 3-13); a plurality of fonA/arding-planes (forwarding planes 1....N, items 16 of Fig 6), each having a forwarding-plane processor (item 48 of Fig 6, col 7, lines 28-67) to implement an offload control portion of the control protocol (control message processing is separated from computing task, col 2, lines 29-41) and a plurality of ports (network interface, Items 52 of Fig 6) to connect the router to the computer networks (col 6, lines 16-67); and a back-plane (switching backplane, item 26 of Fig 6) to connect the control plane (item 12 of Fig 6) to the plurality of forwarding-planes (Items 16 of Fig 6) and to enable processing of the packet based on an implementation of the control protocol by the control-plane and the forwarding-plane (col 6, lines 16-67, Fig 5) [col 7, lines 1-67, col 8, lines 1-67, col 9, lines 1-33].

The applicant disagrees. In claim 1, each forwarding plane has "a forwarding-plane processor to implement an offload control portion of the control protocol." The examiner contends that the forwarding planes disclosed in *Subramanian* (U.S. Patent No. 6,970,943) implement an offload control portion of the control protocol because the architecture in *Subramanian* "separates the task of control from computation." (col. 2 lines 31-32). However, *Subramanian* did not describe and would not have made obvious that the forwarding planes implement any portion of a control protocol. The forward processor (item 48) in *Subramanian* "provides the typical routing processing and functions in traditional fashion for those packets that do not require the application processing of the compute plane 14." (col. 8 lines 20-23). Thus there is no indication that the *Subramanian* forwarding planes implement " an offload portion of a control protocol" as recited in claim 1.

Any separated tasks in *Subramanian* are not performed by the forwarding planes, but by "[a] new, high-speed computation plane ... to handle application level processing, while the forwarding plane provides basic forwarding." (col. 2 lines 33-36; see also Figs. 2, 5). *Subramanian* did not disclose and would not have made obvious forwarding planes having "a forwarding-plane processor to implement an offload control portion of the control protocol" as recited in claim 1.

Claims 54, 65, 69, 77, 79, 85, and 87 are patentable for at least similar reasons.

All dependent claims are patentable for at least the same reasons as the claims on which they depend.

Canceled claims, if any, have been canceled without prejudice or disclaimer.

Any circumstance in which the applicant has (a) addressed certain comments of the examiner does not mean that the applicant concedes other comments of the examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim does not mean that the applicant concedes any of the examiner's positions with respect to that claim or other claims.

The fee in the amount of $450 for the Petition for Extension of Time fee is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply all charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 10559-568001.

Respectfully submitted,

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